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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/535,186	03/27/2000	George McBride	CARDIOBEAT-1	3794

7590 07/13/2006

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EXAMINER
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CHARIOUI, MOHAMED

ART UNIT	PAPER NUMBER
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2857

DATE MAILED: 07/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

32

<b>Office Action Summary</b>	<b>Application No.</b> 09/535,186	<b>Applicant(s)</b> MCBRIDE ET AL.	
	<b>Examiner</b> Mohamed Charioui	<b>Art Unit</b> 2857	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 27 April 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1 and 4-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 4-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 3/27/00 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

1. Cancelled claims 2 and 3.

## **DETAILED ACTION**

### ***Drawings***

2. **Figure 1** is objected to because boxes are not labeled, The Examiner directs the applicant to 37 C.F.R. 1.84(n) and 1.84(o) which state, "Graphical drawing symbols may be used for conventional elements when appropriate" while "[o]ther symbols which are not universally recognized may be used, subject to approval by the Office" and that "[s]uitable descriptive legends may be used subject to approval by the Office, or may be required by the examiner where necessary for understanding of the drawing". Since the drawing in Figure 1 does not contain conventional elements, the Examiner may require descriptive legends for better understanding of the drawings. See MPEP 608.02.

**Figures 8-10** are objected to because they are illegible. Applicant is required to submit replacements of these figures that are legible.

### ***Claim Objections***

3. **Claims 1 and 4-20** are objected to because of the following informalities:

In claim 1, line 3, change "said test sensor" to –said test sensors". Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the

Art Unit: 2857

applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**Claims 1, 4-7 and 18-20** are rejected under 35 U.S.C. 102(e) as being anticipated by Lichter et al. (U.S. Patent No. 6,159,147).

**As per claims 1, 4 and 18-20** Lichter et al. teach providing non-invasive test sensors for a subject coupling said test sensor to said subject (see col. 14, lines 36-46; col. 16, lines 7-23; and col. 16, lines 26-32); coupling said test sensors to impedance measuring apparatus having access to the Internet (see col. 16, lines 23-38 and col. 8, lines 1-21); operating said apparatus to automatically obtain test measurement impedance data from said test sensors (see col. 8, lines 1-21; col. 16, lines 26-32; and col. 16, lines 8-22); uploading said test measurement impedance data via the Internet to a location remote from said subject (see col. 16, lines 29-38); providing a server at said remote location (see col. 16, lines 23-38); processing said test measurement impedance data at said central server to produce processed impedance cardiography data (see col. 8, lines 7-21 and col. 16, lines 7-23); downloading said processed impedance cardiography data from said server to said apparatus (see col. 8, lines 7-21) and displaying said processed impedance cardiography data at said apparatus (see col. 16, lines 11-23).

**As per claims 5-7**, Lichter et al. further teach receiving a request at said server from second apparatus having access to the Internet, said request being to obtain said processed impedance cardiography data and transmitting said processed impedance

cardiography data to said second apparatus (see col. 9, line 65 to col. 10, line 9 and col. 16, lines 23-38).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. **Claims 8-16** are rejected under 35 U.S.C. 103(a) as being unpatentable over Lichter et al. in view of Koning et al. (U.S. Patent No. 4,730,619).

**As per claims 8-11**, Lichter et al. teach the system as stated above except for storing the processed impedance cardiography data in a database.

Koning et al. teach this feature (see col. 13, lines 33-47 and col. 5, lines 3-15). It would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate Koning et al.'s teaching into Lichter et al.'s invention because the processed impedance cardiography data stored would be compared to previously stored data to determine the change in the blood volume during patient activity. Therefore, required actions would be taken by the practitioners to bring the heart rate to normal operations.

**As per claims 12, 13, 15 and 16**, Lichter et al. further teach transmitting the second processed impedance cardiography data from the central server to the apparatus and displaying the second processed data at the apparatus (see col. 16, lines 7-22).

**As per claim 14**, Lichter et al. further teach receiving a second request at said central server from second apparatus, said request being to obtain said second processed impedance cardiography data and transmitting said second processed impedance cardiography data to said second apparatus (see col. 16, lines 9-12).

6. **Claim 17** is rejected under 35 U.S.C. 103(a) as being unpatentable over Lichter et al. in view of Koning et al. and Klotz (U.S. Patent No. 5,725,563).

Lichter et al. in view of Koning et al. teach the system as stated above except for encrypting the second processed impedance cardiography data at said central server and decrypting the encrypted data at the second apparatus.

Klotz teaches this feature (see col. 7, lines 1-28). It would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate Klotz's teaching into Lichter et al. in view of Koning et al.'s teaching because unauthorized access to the data would be prevented and privacy of the patients information would be maintained.

### ***Response to Arguments***

7. Applicant's arguments with respect to claims 1 and 4-20 have been considered but are moot in view of the new ground(s) of rejection.

### ***Prior art***

8. The prior art made record and not relied upon is considered pertinent to applicant's disclosure:

**Snell ['204]** disclose method and apparatus for controlling an implantable device programmer using voice commands.

**Carroll et al. ['928]** disclose adaptable electronic monitoring and identification system.

**Blike et al. ['963]** disclose system and method for displaying medical process diagrams.

**Owen et al. ['233]** disclose defibrillation system having segmented electrodes.

**Davis et al. ['014]** disclose method and system for detection of physiological conditions.

**Ruben et al. ['734]** disclose method and apparatus for noninvasively determining hematocrit.

**Tacklind et al. ['117]** disclose system for monitoring and reporting medical measurements.

**Wong et al. ['827]** disclose method for calibrating sensors used in diagnostic testing.

**Zacouto ['745]** disclose device for protection against blood-related disorders, notably thromboses, embolisms, vascular spasms, hemorrhages, hemopathies and the presence of abnormal elements in the blood.

**Martin ['395]** discloses continuous cardiac output derived from arterial pressure waveform using pattern recognition.

#### ***Contact information***

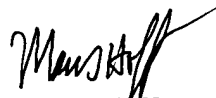
9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mohamed Charioui whose telephone number is (571) 272-2213. The examiner can normally be reached Monday through Friday, from 9 am to 6 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marc S Hoff can be reached on (571) 272-2216. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Mohamed Charioui

6/29/06

  
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